

PREPROPOSAL CONFERENCE

US DOE NATIONAL NUCLEAR SECURITY ADMINISTRATION (NNSA)
NNSA AVIATION PROGRAM SUPPORT – DE-RP52-06NA25694
WEDNESDAY, APRIL 12, 2006

ENERGY TRAINING CENTER
1401 MAXWELL STREET, SE
KIRTLAND AIR FORCE BASE, WEST
ALBUQUERQUE, NM 87118

08:00 AM	REGISTRATION
08:15 AM	OFFICE OF SECURE TRANSPORTATION AVIATION MISSION – JOEL VOISINE
08:45 AM	CONFLICT OF INTEREST & PROCUREMENT INTEGRITY – PAUL GERVAS
09:15 AM	NNSA AVIATION SUPPORT CONTRACT REQUIREMENTS – DAVID LOPEZ
09:45 AM	PROPOSAL SUBMISSION REQUIREMENTS – DAVID GALLEGOS
11:15 AM	LUNCH
01:15 PM	QUESTIONS & ANSWERS
02:15 PM	AVIATION FACILITY SITE TOUR
05:00 PM	ADJOURN

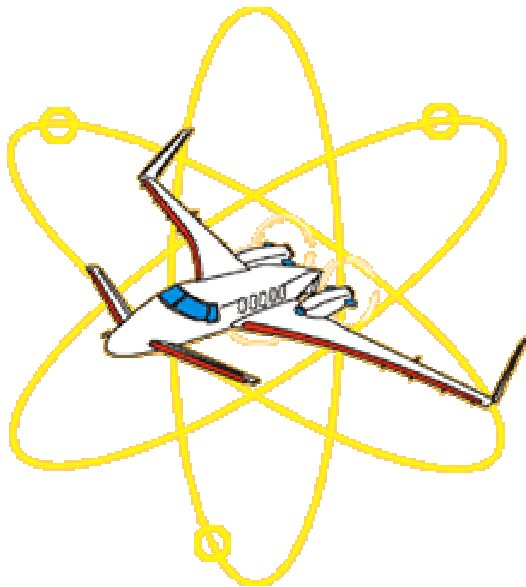
NNSA Aviation Program Support

Preproposal Conference Attendees

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>ORGANIZATION</u>
Aldrich	Jeff	Ryan International Airlines
Buckles	Nancy L.	Ross Aviation Inc.
Calloway	Carolyn	Ross Aviation Inc.
Cavin	William	BC Professional Services Inc.
Cox	Terry	Ryan International Airlines
Dunn	Howard	Ross Aviation Inc.
Fay	Tom	Ryan International Airlines
Flynn	Jim	Ryan International Airlines
Galassini	Reneta	Ross Aviation Inc.
Glasser	Scott	ABX Air, Inc.
Gooris	Gary	L-3 Vertex Aerospace LLC
Hawley	Doug	Ross Aviation Inc.
Jones	Eric	Ross Aviation Inc.
Komberec	Tim	Empire Airlines
Lanfell	Randy	Empire Airlines
McMahon	Robert	Empire Airlines
McNeff	Don	USA Jet Airlines
McPhail	Jim	Pace Airlines
Melton	Lisa	L-3 Vertex Aerospace LLC
Noble	Mitch	USA Jet Airlines
Nulk	Vince	CSI Aviation Services
Osterholtz	Bob	Ross Aviation Inc.
Otten	Kevin	USA Jet Airlines
Pearson	Ron	Ross Aviation Inc.
Pierce	Lewis A.	Ross Aviation Inc.
Reardon	Mike	USA Jet Airlines
Savastano	Jim	Ryan International Airlines
Tucker	Larry	Empire Airlines
Winters	Bryan	Ryan International Airlines
Wiley	Nolan	Empire Airlines
Wilson	Jon	Ryan International Airlines



OFFICE OF SECURE TRANSPORTATION AVIATION BRANCH



INFORMATION BRIEFING
April 12, 2005

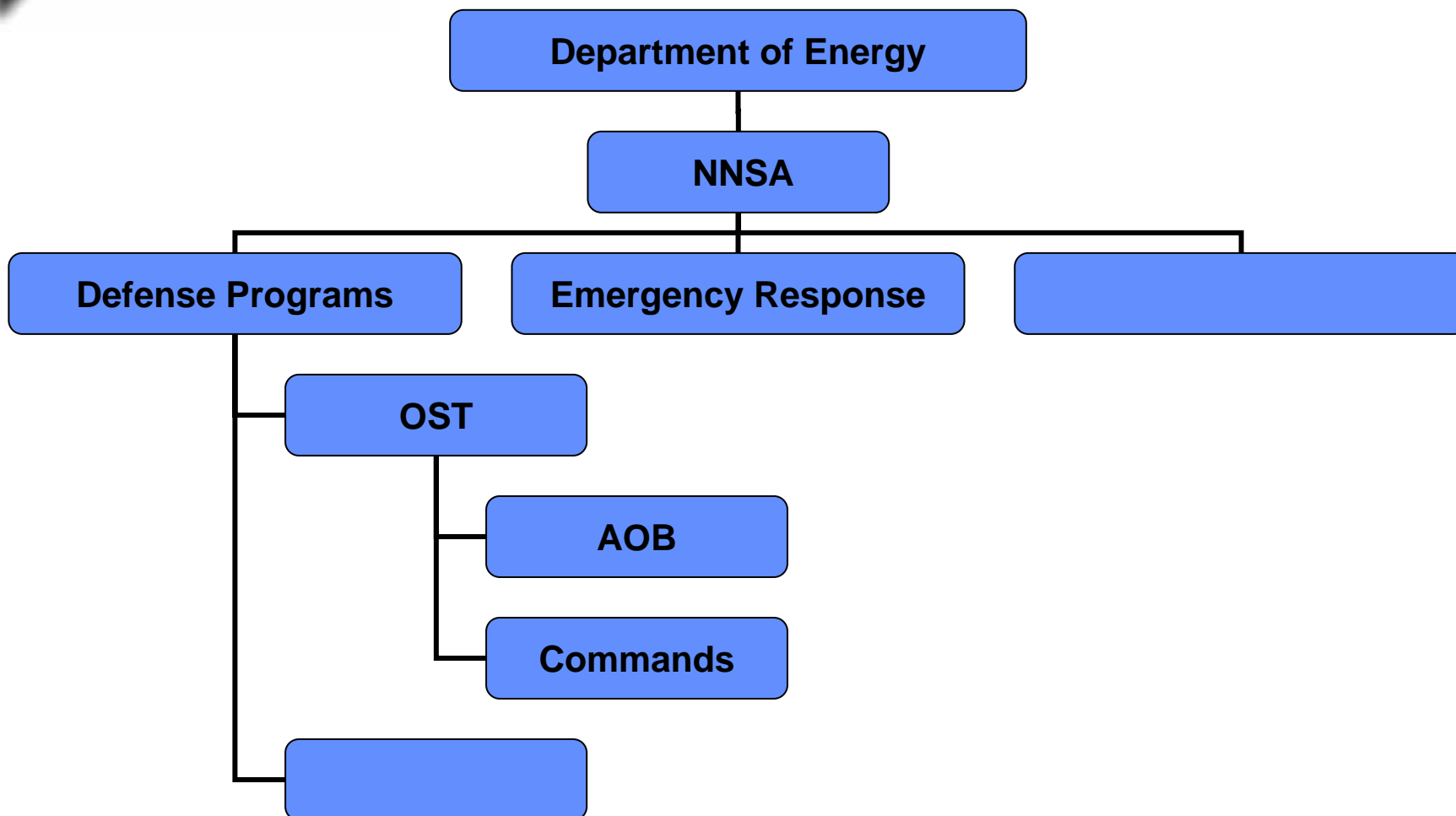
JOEL VOISINE
AVIATION PROGRAM MANAGER
COR



Objective

Provide prospective offerors an information briefing on the organization, assets, operations and mission of the Aviation Operations Branch and an aviation facility tour.



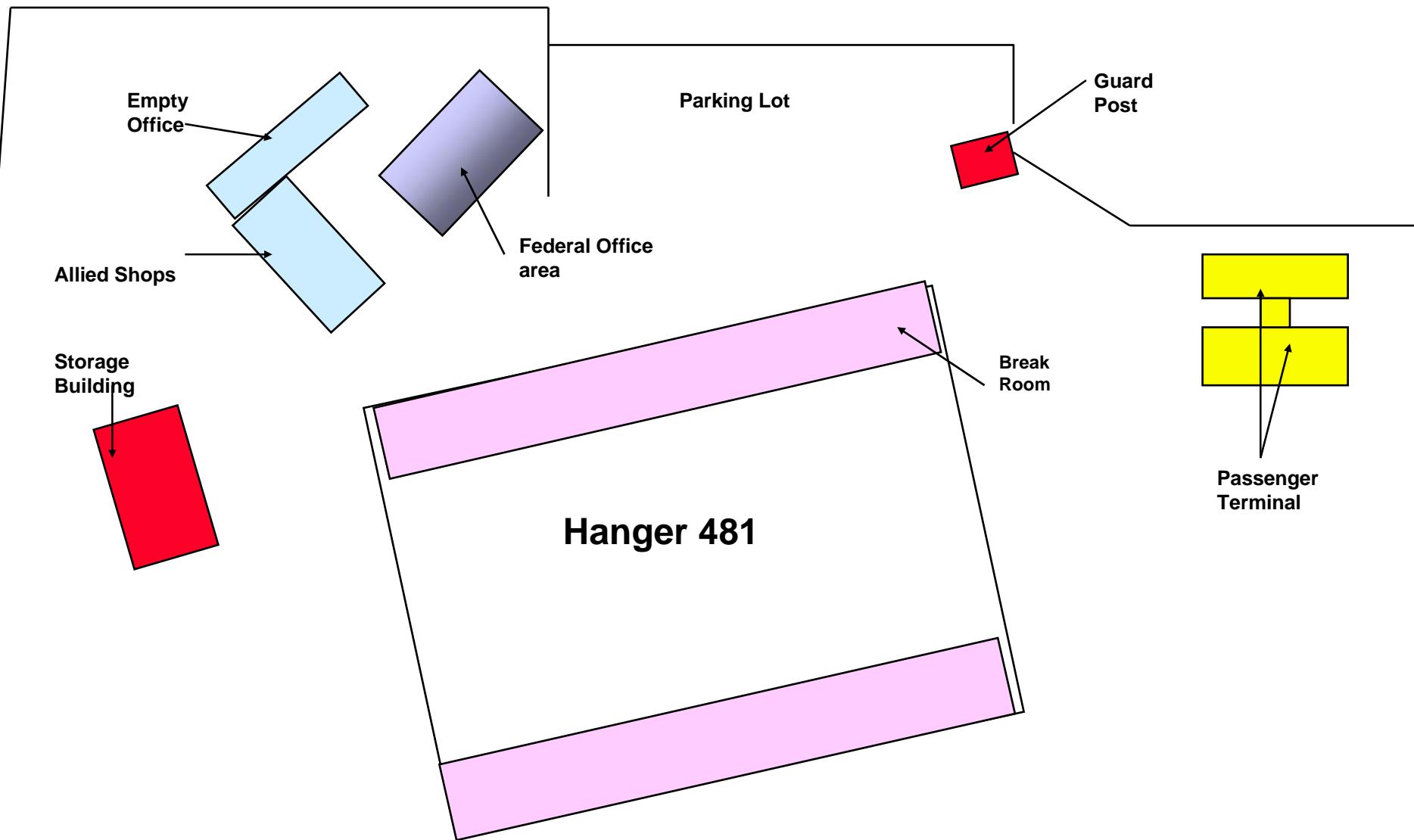




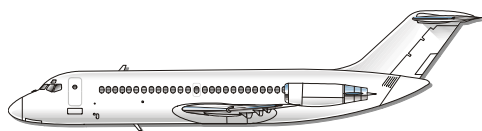
Government Owned Contractor Operated (GOCO)

- **GOVERNMENT OWNED (GO) - FEDERAL MANAGEMENT AND OVERSIGHT**
 - **4 FTE Federal Positions**
 - » **Program Manager - Joel Voisine**
 - » **Director, Safety, Security and Operations– Jim Combs**
 - » **Director Airworthiness Safety – Jerry Feery**
 - » **Director, Business Operations – Vacant**
- **CONTRACTOR OPERATED (CO) – SERVICE SUPPORT CONTRACTOR**
 - » **Services Support Contractor flies and maintains the aircraft**

Aviation Complex Facilities Diagram Kirtland Air Force Base, Albuquerque, NM



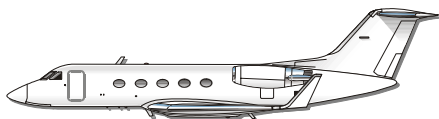
OST Aircraft Fleet



2-DC-9-15F

1-DC-9-33F

Passenger/Cargo (1966/1969 models)



1-G-III

Passenger Aircraft (1986 model)



1-Learjet 35

Passenger/Cargo (1991 model)



2-Twin Otters

Passenger/Cargo/R&D (1976 models)

A portion of the American flag is visible in the top left corner, showing the stars and stripes.

OST Aviation Mission

Stewards of the National Nuclear Weapons Stockpile – support delivery of weapons to and from military locations.

- **24/7 standby support of nuclear emergencies (DC-9)**
- **Transport Limited Life Components (DC-9, LR 35)**
- **Transport the OST Courier Force who man ground convoys (DC-9, GIII, LR-35)**
- **Transport special devices or inert training devices developed by the National Laboratories (DC-9)**
- **Support of special research and development programs operated by Sandia, Los Alamos or Livermore (DHC-6)**
- **General transportation support of NNSA, the National Laboratories or other Government Agencies who are performing their Government mission. (DC-9, GIII, LR 35, DHC-6)**

The Future

Navy C-9 June 2006

- 1969 DC9-33F with JT8D-15 engines.
- Part 91



DC-9 Fleet Modernization

- 737-300/400F in FY 09-11





Conclusion

Facility Tour

**Please submit questions and comments
specific to the contract to David Gallegos.**

**Answers will be posted to the acquisition
website. <http://www.eps.gov>**



Acquisition & Assistance Digest

Office of Procurement and Assistance Management

U.S. Department of Energy

Policy

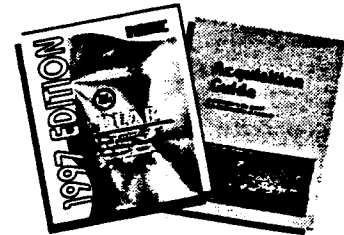
The New Procurement Integrity Act

Congress completely revised the original Procurement Integrity Act (41 U.S.C. 423) (hereinafter called the PIA) with the enactment of the Federal Acquisition Reform Act of 1996 (FARA). FARA, passed as part of the Department of Defense Authorization Act of 1996, (Public Law 104-106, section 4304), was enacted into law on February 10, 1996. The FARA is now referred to as the Clinger-Cohen Amendment Act of 1996 (62 FR 226, January 2, 1997).

The regulations implementing the PIA took effect on January 1, 1997 (62 FR 226). Although the new PIA continues to protect and prohibit the unauthorized disclosure of proprietary ("bid and proposal") and source selection information, the prohibition is no longer limited to the time frame "during the conduct of the procurement." The prohibitions apply to specific types of disclosure "before successful completion of the Federal agency procurement to which the information relates."

The PIA prohibits a "person," defined as "a present or former official of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to a Federal agency procurement, and by virtue of that office, employment or relationship has or had access to contractor bid or proposal information or source selection information" (FAR 3.104-4(a)(2)(I) and FAR 3.104-4(a)(2)(ii)), from knowingly disclosing bid or proposal or source selection information before the award of a Federal agency procurement contract to which the information relates (FAR 3.104-4(a)), other than as provided by law. A "person" will also include contractor employees providing administrative, engineering, managerial, technical, or other specialized support services to the Federal agency on a specific procurement to which the information relates (FAR 3.104-4(a)).

The PIA also prohibits a "person," from knowingly obtaining bid or proposal or source se-

**INSIDE****POLICY**

The New Procurement Integrity Act 1

**REVIEW/ANALYSIS
COMMENTARIES**

Department of Energy Board of Contract Appeals 6
GAO Bid Protest Roy F. Weston, Inc 6
GAO Decision on Past Performance Didn't Require
Referral to the SBA 8
GAO Decides Protest Requiring Agency to
Identify an Offeror as an 8(a) Concern 8
DOE-wide NEPA Document Preparation Contracts
Awarded 9
John Koskinen on GPRA and Reinvention 10

SMALL BUSINESS CORNER

Small Business Competitiveness Demonstration
Program 11
Empowerment Contracting 11

POTPOURRI

Procurement Integrity Pamphlet 12
Procurement and Assistance Skills Training Program
Schedule, FY 1997 12

**FEDERAL REGISTER
NOTICES**

..... 14

lection information before the award of a Federal agency procurement to which the information relates (FAR 3.104-4(b)), except as provided by law.

A person is no longer required to be an individual acting personally and substantially during the conduct of the procurement, and the term procurement official and competing contractor, are no longer precise legal terms or elements to be considered in any determination of a violation or "possible violation" under the new provisions.

The new coverage of the PIA is as follows:

- ☐ The provisions continue to prohibit disclosure of proprietary and source selection information. Arguably, the new provisions broaden the scope of protected contractor information because the restrictions are no longer limited to the time-frame once referred to as "during the conduct of a procurement". Instead, the new restrictions apply to "contractor bid or proposal information or source selection information before the award of a Federal agency contract to which the information relates."
- ☐ The prohibitions now apply to present or former United States officials and to those persons who acted on behalf of or advised the United States and obtained access to this information by virtue of their office, employment, or relationship.
- ☐ All persons are forbidden from knowingly obtaining contractor bid or proposal information or source selection information except as authorized by law.
- ☐ Any agency official who participates personally and substantially in a contract over the simplified acquisition threshold (over \$100,000) must report employment contacts with any person who is a bidder or offeror in that procurement. This report must be made in writing to the supervisor and to the designated agency ethics official or designee. The individual must then either reject employment or disqualify himself/herself from the procurement. The agency may authorize resumption of participation on the grounds that the person is no longer a bidder or off-

eror in that procurement or that all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment. Reports of employment contacts must be retained by the agency for at least two years following the submission of the report.

- ☐ Civil remedies for violations include monetary penalties of up to \$50,000 for individuals (for organizations \$500,000 per violation) plus twice the amount of compensation which the individual received or was offered.
- ☐ Criminal penalties include imprisonment for up to 5 years and a fine, or both against those individuals who knowingly disclose or knowingly obtain prohibited information for the purpose of exchanging the information for a thing of value or for getting or giving a competitive advantage in the award.
- ☐ Post-Government employment: the PIA replaces the old PIA's post-Government employment provisions with a ban on accepting compensation from a contractor as an employee, officer, director, or consultant of a contractor within a period of one year after such former official:
 - Served, at the time of selection of a contractor or the award of a contract to that contractor, as the procuring contracting officer, the source selection authority, a member of a source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which the contractor was selected for award of a contract in excess of \$10,000,000 (FAR 3.104-4(d)(1)(I));
 - Served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of \$10 million awarded to that contractor (FAR 3.104-4(d)(1)(ii)); or personally made for the Federal agency
 - A decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of \$10,000,000 to that contractor (FAR 3.104-4(d)(1)(iii)(A)); or
 - A decision to establish overhead or other

rates applicable to a contract or contracts for that contractor that are valued in excess of \$10 million (FAR 3.104-4(d)(1)(iii)(B)); or

- A decision to approve issuance of a contract payment in excess of \$10 million (FAR 3.104-4(d)(1)(iii)(C)); or

- A decision to pay or settle a claim in excess of \$10 million with that contractor (FAR 3.104-4(d)(1)(iii)(D)).

☐ The one-year post-Government employment ban does not preclude a former official of a Federal agency from accepting compensation from any division or affiliate of the particular contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract (FAR 3.104-4(d)(2)).

☐ The term "contract" for the purposes of the post-employment restrictions at FAR 3.104-4(d), includes both competitively awarded and non-competitively awarded contracts.

☐ Administrative Sanctions for Violations. Violations of the prohibitions of the new statute also may be grounds for cancellation of the procurement or disqualification of the offeror by the contracting officer at the direction of the head of the contracting agency (HCA) or designee if he/she concludes that the prohibitions of subsections 27(a),(b),(c), or (d) of the PIA have been violated. These are the prohibitions on disclosing and obtaining prohibited information, and the actions required by officials described earlier in non-Federal employment situations.

- Where the contract has not been awarded: the agency can cancel the procurement, disqualify an offeror, or take any other appropriate actions on behalf of the Government.

- Where the contract has been awarded: The agency can effect appropriate contractual remedies, including price or fee adjustment for an illegal or improper activity pursuant to FAR 52.203-10; or if the contract has been rescinded, the agency may recover the amount expended under the contract.

The agency may rescind or void the contract under specific circumstances. One specific circumstance includes a criminal conviction for a violation of subsections 27(a) or 27(b) of the PIA, i.e. the prohibition on knowingly disclosing to an unauthorized person or knowingly obtaining bid and proposal or source selection information without legal authorization before award. Also, it must be shown that the violation was for the purpose of exchanging the prohibited information for anything of value; or that the violation was for the purpose of obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

- Where the head of the agency or designee has determined, based on the preponderance of evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting a punishable offense, (FAR 3.104-10(d)(2)(ii)(B)). Under such circumstances, the head of the agency or designee may also take any other appropriate actions in the interest of the Government such as referring the matter to an agency suspension and debarment official.

- In any event, the head of the agency or designee "shall recommend or direct an administrative or contractual remedy commensurate with the severity and effect of the violation."

- Adverse personnel actions can be initiated against a Government employee for violating the PIA.

☐ The FARA and implementing regulations eliminate the requirement for submitting procurement integrity certifications and the statutory requirement for a mandatory training program for the implementation of the PIA.

☐ What is Protected?

1. Source selection information (SSI) (41 U.S.C. 423(f); FAR 3-104-3) means information (listed below) which is prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into an agency

procurement contract if that information has not been made available to the public (FAR 3.104-3) (e.g. draft RFP's or statements of work sent to potential offerors with a notice of availability published in the CBD or the Federal Register, and would not be protected).

SSI would include:

- a. Bid Prices submitted in response to a Federal agency invitation for bids, or lists of those bid prices before bid opening.
- b. Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices or practices.
- c. Source selection plans.
- d. Technical evaluation of proposals.
- e. Cost or price of proposals.
- f. Cost or price evaluation of proposals.
- g. Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.
- i. Ranking of bids, proposals, or competitors.
- j. Reports and evaluations of source selection panels, boards or advisory councils.
- k. Other information marked as SOURCE SELECTION INFORMATION-SEE FAR 3.104 based on a case-by-case determination by the head of the agency or designee, or the contracting officer, that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

2. Contractor Bid or Proposal Information

This is information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly. This information includes the following:

a. Cost or pricing data with respect to procurements covered under specific procurement statutes, i.e. 10 U.S.C. 2306(h); 41 U.S.C. 254b(h).

b. Indirect costs and direct labor rates.

c. Proprietary information about processes, operations or techniques marked by the contractor in accordance with applicable law or regulation.

d. Information marked by the contractor as "contractor bid or proposal information" in accordance with applicable law or regulation.

e. Information marked in accordance with FAR 52.215-12, Restrictions on Disclosure and Use of Data.

-Paul A. Gervas

Office of the Assistant General Counsel for
Procurement and Financial Assistance

☎ 202-586-1526

Implementation of New Preaward Debriefing Requirements

Congress has recently changed the requirements for debriefings. According to section 4101 of the Clinger-Cohen Act and section 15.1005 of the Federal Acquisition Regulation (FAR), the contracting officer is required to "make every effort" to provide a debriefing "as soon as practicable" after it is requested even if it is requested prior to award. The new law does allow the contracting officer to postpone the debriefing until after award if it is not "in the best interests of the Government" to conduct it before award.

In a recent case entitled *Global Engineering & Construction Joint Venture*, B-275999.3, February 19, 1997, 97-1 CPD ¶__, the General Accounting Office (GAO) reviewed this requirement and held that it will not review the Government's determination to postpone a preaward debriefing until postaward as long as the offeror who requested the debriefing is not prejudiced by the delay. The GAO warned the agencies that postponing the